The appeal was heard by MEREDITH, C.J.O., MACLAREN, MAGEE, and HODGINS, JJ.A.

T. N. Phelan, for the appellant.

Irving S. Fairty, for the defendants, respondents.

MEREDITH, C.J.O., reading the judgment of the Court, said that the main question for decision was, whether the ground upon which the appellant was dismissed by the Chief of the fire brigade was a sufficient ground to justify the dismissal.

The appellant was a young man, not living with his wife, and he had living with him the wife of another man, a comparatively young woman, who was separated from her husband. Complaint was made to the Chief on account of this; and, after investigation, he informed the appellant that he must leave the brigade if he did not cease to have the other man's wife living under the same roof with him. The appellant refused to put an end to the relations; and the Chief, being of opinion that the appellant's conduct was prejudicial to the interests of the brigade and the public, dismissed him.

Reference to Marshall v. Central Ontario R.W. Co. (1897), 28 O.R. 241, 243; Pearce v. Foster (1886), 17 Q.B.D. 536, 542; Labatt on Master and Servant, 2nd ed., vol. 1, p. 926, sec. 297.

Having regard to the nature of his employment, the conduct of the appellant was such as to justify his dismissal—such as prejudicially to affect the reputation of his employer. He was apparently living in open adultery, and his refusal to comply with the request of the Chief to cease to have his neighbour's wife living under his roof justified the Chief in dismissing him.

The judgment might also be supported upon the ground that the appellant was guilty of boasting to his comrades in the brigade of having illicit relations with his neighbour's wife.

Although it was not known to the Chief that these boasts were made, and the making of them was not assigned as a ground for the dismissal, it is clear law that the dismissal of an employee may be justified for a cause not known to the employer at the time when the dismissal took place.

Appeal dismissed with costs.